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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,577	08/14/2001	Michael Ehlers	655.00963	9151

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WOOD, PHILLIPS, VAN SANTEN, CLARK & MORTIMER
SUITE 3800
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CHICAGO, IL 60661

EXAMINER

FORD, JOHN K

ART UNIT	PAPER NUMBER
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3753

DATE MAILED: 02/04/2004

15

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/929,577

Examiner

FORD

Applicant(s)

Ehlers et al.

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/27/03
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-34 is/are pending in the application.
- 4a) Of the above claim(s) 30-33 is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 19-29 and 34 is/are rejected.

7) ☒ Claim(s) 24-26, 29 and 34 is/are objected to (if 35 USC 112, 1st ¶ rejection is overcome and claims are rewritten in independent form including all limitations of the base claim and any and all intervening claim).

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 14

18) ☐ Interview Summary (PTO-413) Paper No(s) _____

19) ☐ Notice of Informal Patent Application (PTO-152)

20) ☐ Other:

Applicant's election of Group I, claims 19 – 29 and 34, a compact cooling system and radial fan combination, with traverse, is acknowledged. Applicant's request for reconsideration based on a statement that the claims are not taking divergent tracks is not persuasive and the restriction requirement is made final. To speed examination counsel is requested to rewrite claim 34 in independent form, including all limitations of base claim 30, at his earliest convenience and to cancel claims 30-33 without prejudice to file a divisional application there on.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 19-29 and 34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In claims 19 and 34 applicants claim an inlet in one header. That limitation is clearly supported by the originally filed specification. However applicants go on to claim that there is an outlet in "one of said first and second headers". What was originally disclosed was an outlet in the second header and no more. There is no original description of invention in the original disclosure to support a claim limitation that the outlet and inlet are both in the first header. This is new matter.

Claims 19 – 29 and 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

IT is unclear in both claims 19 and 34 which tubes constitute “end tubes”. There is nothing in these claims that states the “end tubes” define the peripheral edge of the heat exchanger. As such the Examiner is unsure of the meaning to be ascribed to this term. The claims are given their broadest reasonable interpretation during examination.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19,20,21,22,23,27,28^{are} rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of Ehlers (6164909), JP 8-136176 and JP 3 – 79994)

Ehlers discloses a plurality of heat exchangers(23,24,24) grouped around a radial fan with headers extending along the fanaxis. Also see heat exchangers 25 and 26. No details of the header inlets and outlets and connection pipes to the headers are disclosed.

JP 8-136176 teaches in Figure 16 (d) the type of inlet and outlet connections to the headers claimed here. To have used these types of connections (by extending the

Art Unit: 3743

header tanks of Ehlers beyond the end tubes and using tubes, such as 2g and 2h of JP'176, to make the external connections) to facilitate assembly and protect the supply connections would have been obvious.

Furthermore to have formed these tubes (2g and 2h) with a rectangular configuration would have been obvious from JP 3-79994 to facilitate a strong construction.

Claims 24-26, 29 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, *and amended to overcome the 35 U.S.C. 112, first and second paragraph rejections.*


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3743

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to John Ford at telephone number 703-308-2636.



John K. Ford
Primary Examiner